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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

B.M.,

Petitioner,

v.

THE SUPERIOR COURT OF MERCED
COUNTY,

Respondent;

MERCED COUNTY HUMAN SERVICES
AGENCY,

Real Party in Interest.

F059807

(Super. Ct. No. JV27886)

OPINION

THE COURT*

ORIGINAL PROCEEDINGS; petition for extraordinary writ review. Harry L. Jacobs, Commissioner.

B.M., in pro. per., for Petitioner.

No appearance for Respondent.

James N. Fincher, County Counsel, and James B. Tarhalla, Deputy County Counsel, for Real Party in Interest.

*Before Gomes, Acting P.J., Kane, J., and Poochigian, J.

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Petitioner in propria persona seeks an extraordinary writ (Cal. Rules of Court, rule 8.452) from respondent court's orders issued at a contested 12-month review hearing terminating her reunification services and setting a Welfare and Institutions Code section 366.26¹ hearing as to her son T. We will grant the petition.

STATEMENT OF THE CASE AND FACTS

Dependency proceedings were initiated in September 2008 after then 18-year-old petitioner and her 18-year-old boyfriend, R., were arrested for being under the influence of methamphetamine. Petitioner and R.'s son, T., then 17 months old, was detained by the arresting police officer and released to the Merced County Human Services Agency (agency). The agency placed T. in foster care and filed a dependency petition on his behalf alleging petitioner and R.'s drug use placed T. at a substantial risk of harm. (§ 300, subd. (b).)

In its report for the detention hearing, the agency informed the court that petitioner and R., originally from Oregon and Washington State respectively, wanted to leave California. The agency was concerned they would leave the state with T. if the juvenile court did not intervene. The agency also reported that the paternal grandmother in Washington State expressed an interest in being considered for relative placement.

On September 10, 2008, the juvenile court appointed counsel for petitioner and R. and ordered T. detained pursuant to the petition. The court also set a combined hearing on jurisdiction and disposition for October 8, 2008.

On October 8, 2008, the juvenile court continued the combined hearing to October 15 because the agency did not file a report. Meanwhile, the agency filed its report and

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

informed the court that there were no prior child welfare referrals for the family and neither parent had a criminal history in California. The agency also reported that petitioner and R. were young, immature, uneducated and lacking in work experience. As a result, they had no income and were in poverty. In addition, there appeared to be some level of domestic violence in their relationship.

Petitioner and R. each expressed a desire to leave Merced and return to their respective families. Petitioner told the social worker she was used to a “normal” family life which she described as living in a clean house, eating dinner together and having money. She said she was not used to living on food stamps. The social worker asked petitioner how the agency could help her make her life normal. She said the agency could help her by letting her take T. home to her mother and stepfather. R. also stated several times during his interview with the social worker that he wanted to take petitioner and T. back to Washington State to live with his family. He said he needed to get away from Merced. He said he and petitioner had no family in Merced. In Washington State, he had family and the people he knew there did not use drugs.

The agency also reported that petitioner wanted her sister, Jamie, in Oregon considered for placement. She said Jamie is a social worker and had the means to support T. The social worker spoke to Jamie who stated she would help petitioner develop a plan to return to Oregon and would help her obtain services to regain custody of T.

The agency recommended the juvenile court offer petitioner and R. reunification services and that T. remain in foster care in Merced until appropriate relative placement could be established out-of-state. The agency explained that after the juvenile court conducted the jurisdictional hearing, the agency could begin assessing relatives for placement through the Interstate Compact for the Placement of Children (ICPC) process.

On October 15, 2008, the juvenile court convened the combined hearing on jurisdiction and disposition. Petitioner appeared represented by her attorney who submitted on the issue of jurisdiction only. Her attorney expressed their hope that by submitting on jurisdiction, the agency could begin the ICPC process of evaluating petitioner's out-of-state relatives for placement and that petitioner could move back with her family. The court sustained the dependency petition and adjudged T. a dependent child pursuant to section 300, subdivision (b). The court also continued the dispositional phase of the hearing until October 22.

On October 22, 2008, the juvenile court convened the dispositional hearing. Petitioner appeared represented by R.'s attorney who made a special appearance on her attorney's behalf and submitted on the issue of disposition. The court ordered T. removed from petitioner and R.'s custody and placed in the care, custody, and control of the agency for suitable placement. The court also ordered the agency to provide both parents reunification services and set an interim review hearing for January 21, 2009, and a six-month review hearing for April 16, 2009.

Petitioner's reunification plan was comprised of three objectives: that she demonstrate her understanding of how negative relationships impact T.'s life; show her ability to live free from drug dependency; and demonstrate she could consistently, appropriately, and adequately parent T. To that end, her plan required her to complete programs in domestic violence and parenting, complete a drug and alcohol assessment and any recommended treatment, and submit to random drug testing. Petitioner completed the assessment, the result of which were recommendations she complete at least six months of outpatient substance abuse treatment and attend Alcoholics Anonymous/Narcotics Anonymous (AA/NA) meetings at least twice weekly.

On January 21, 2009, the juvenile court convened the interim review hearing. Petitioner appeared, represented by her attorney. The social worker told the court that R.

had not initiated any of his case plan requirements, but that petitioner had completed 10 of the 24 parenting classes and 20 of the 32 substance abuse counseling sessions and was doing well in both. Petitioner was also testing negative for drugs and claimed to be attending AA/NA meetings but had not provided any documentation of her attendance. The social worker also told the court petitioner had been missing visitation until she was provided a bus pass. After that, she began regularly visiting with T. The juvenile court encouraged petitioner to take her case plan requirements seriously and confirmed the date for the six-month review hearing.

On April 16, 2009, the juvenile court convened the six-month review hearing. Petitioner was not present and neither was her attorney. County counsel informed the court that the agency had not filed its report, that the agency's plan was to pursue placement through the ICPC, and that placement had already been approved. Although county counsel did not specify who had been approved for placement, apparently it was a grandparent because county counsel further stated "[P]erhaps we can place the child with the grandparent, then the parents may choose to go back to that [s]tate and participate in services there." The court continued the hearing to May 14.

On May 13, 2009, the agency filed its report for the six-month review hearing, recommending the juvenile court terminate reunification services for both parents. The agency stated that petitioner was homeless, staying wherever she could find a place. Her only source of income was food stamps, and she had no family support in Merced. She regularly visited T., but participated marginally in her case plan. More specifically, the agency stated petitioner completed an intake assessment for domestic violence counseling on January 16, 2009, but did not start attending until March 3. She also told the social worker she had a new boyfriend who was controlling and verbally abusive. She wanted to leave him but had nowhere to go. She completed 19 parenting classes, 32 substance abuse counseling sessions, and was attending weekly one-on-one counseling sessions.

She admitted to some drug and alcohol use in December 2008 and January 2009 but claimed to be clean and sober since February 2009. She also stated she attended AA/NA meetings but not twice weekly. She completed all drug tests but tested positive for methamphetamine, in her hair follicle test, on January 21, 2009.

The agency further reported that T.'s foster parent was willing to keep him long term but that there was also a relative of the foster parent who was very interested in adopting T. if family reunification failed. The relative of the foster parent was in the process of applying for placement of T.

On May 14, 2009, the juvenile court convened the continued six-month review hearing and, at the request of petitioner's attorney, set the matter for a contested hearing on June 1, 2009.

On June 1, 2009, Judge Olney convened the contested six-month review hearing. Petitioner testified that she was living with Ms. Mayo, the ex-girlfriend of R.'s father. She said she only saw R. at visitation and had no plan to resume their relationship. She said she was not working the 12-step program and did not have a sponsor. Minor's counsel read a statement to petitioner that she made to the social worker and that was included in the agency's report: "I'd like everything transferred to Oregon. I don't have a stable home here. I have more support there." He asked her to explain her statement in more detail. Petitioner testified her mother and siblings lived in Oregon and offered to let her live with them. She believed her family could provide a more stable environment. Ms. Mayo also testified. Ms. Mayo said she loved petitioner and would allow her to stay with her as long as she needed.

Following testimony, Judge Olney asked the social worker what the plan was for T. The social worker stated there were two options, placement with petitioner's sister, Jamie, or with the relative of T.'s foster parent. The social worker explained that Jamie previously requested placement but was denied because she did not follow through with

the paperwork. However, Jamie contacted the social worker the week before the hearing and asked to begin the process again after finding out that T. might be adopted. As to the relative of T.'s foster parent, the social worker stated the relative had had ongoing contact with T. for nine months and was in the process of being approved for adoption.

At the conclusion of the hearing, Judge Olney terminated reunification services for R. but continued services for petitioner. Judge Olney disagreed with the agency that petitioner had not complied with her case plan, finding that on balance she was more in compliance than not. He also ordered the agency to evaluate petitioner's relatives in Oregon for placement, stating:

“At this point in time I'm reluctant to completely cut off any opportunity that [petitioner] might have to reunify with her son. I'm going to ... order that ... the department proceed with concurrent planning. Let's go ahead and take the appropriate steps [to see] whether ... a family member in Oregon ... would be available as an appropriate home in which to place [T.] or [whether] this independent party, locally, [would be] available. The law, of course, sets a certain pecking order in that regard and I'm sure the department is aware of that and [will follow] that.”

Judge Olney also ordered county counsel to prepare a proposed order reflecting the language quoted above and set an interim review hearing for August 31, 2009. Judge Olney's order that the agency evaluate petitioner's relatives in Oregon was not included on the minute order for the hearing.

On June 23, 2009, the agency filed an updated services case plan with two new objectives for petitioner: develop positive support systems with friends and family, and obtain resources to meet the needs of her children and to provide a safe home. No commensurate duties were placed on the social worker to assist petitioner in achieving those objectives. Nor did petitioner sign the updated case plan.

On July 6, 2009, the agency filed an ex parte application and order requesting that T. be allowed to accompany his foster parent out of state to visit family. The agency

explained in the application that T. was now in a potential concurrent home and bonding to his new foster parent.

On August 28, 2009, the agency filed a report for the August 31, 2009, interim review hearing. The agency reported that petitioner was essentially in the same situation; living with friends, receiving food stamps and visiting T. weekly. In addition, she completed the parenting program and substance abuse treatment, was regularly attending AA/NA meetings and weekly domestic violence counseling, and was testing negative for drugs. T. appeared happy to see petitioner during visitation and she interacted well with him and hugged and kissed him. She also made it clear she did not want him adopted. The agency recommended the court continue reunification services but did not believe there was a substantial probability T. could be returned to petitioner's custody by August 31. Attached to the agency's report was an updated case plan with a new requirement that petitioner obtain a safe and stable home for herself and T. Petitioner's signature is not on the updated case plan contained in the appellate record.

On August 31, 2009, Judge Jacobs convened the nine-month interim review hearing. He would preside at all subsequent hearings in the case. Petitioner appeared with her attorney who submitted on the agency's report. No mention was made of placing T. with petitioner's relatives. The court continued services and set the 12-month review hearing for October 8, 2009.

The 12-month review hearing scheduled for October 8, 2009, was continued because R.'s attorney was not present and then continued three more times from late October to December 2009 because the agency had not filed its report. At the last of those hearings, conducted on December 8, 2009, county counsel told the court the recommendation was to terminate petitioner's reunification services because one of her roommates tested positive for marijuana, she was not participating in the 12-step

program, and she did not have a plan to take care of T. At the request of petitioner's attorney, the court set a contested hearing for January 7, 2010.

On December 22, 2009, the agency filed its 12-month status review, recommending the juvenile court terminate petitioner's reunification services and reported that on June 26, 2009, T. was moved to the home of a new foster parent who wanted to adopt him. As to its rationale for terminating petitioner's services, the agency stated she had little insight into the ill effects of domestic violence and could not articulate what she learned from attending AA/NA meetings. In addition, she did not have a viable plan for caring for T. and lived with four roommates, three of whom had child welfare and criminal histories.

On January 7, 2010, the juvenile court convened the contested 12-month review hearing. Petitioner appeared, represented by counsel. Her sister, Jamie, and her maternal uncle, Marvin, were also present. However, the court continued the hearing to January 25, 2010, because neither R. nor his attorney was present. In addition, petitioner's attorney explained to the court that petitioner was having difficulty getting identification because the name on her social security card was different than the name on her birth certificate. Consequently, Jamie and Marvin wanted to take petitioner to Oregon to rectify the discrepancy.

On January 25, 2010, Marvin returned for the hearing but without Jamie. Petitioner's attorney requested a continuance so that Jamie could be present. He made an offer of proof that she would testify she and other family members in Oregon were prepared to provide petitioner and T. support and a safe place to live. The juvenile court continued the 12-month review hearing to February 16, 2010.

On February 16, 2010, the juvenile court continued the hearing to March 3, 2010, because minor's counsel was not present. Marvin was present for the hearing.

On March 3, 2010, the juvenile court continued the hearing to March 22, 2010, because minor's counsel was in trial. Jamie and Marvin were present for the hearing.

On March 22, 2010, the contested 12-month review hearing was conducted. Petitioner's position at the hearing was that she fully complied with her case plan and that T. should be returned to her custody immediately. County counsel submitted the matter on the agency's report and recommendation.

Petitioner testified she completed all of her case plan requirements except domestic violence counseling from which she would graduate the next day. On her own, she completed the Empower Program, a program designed to teach job skills and assist with job placement. She said her plan was to return to Oregon and live with Jamie and her uncle Marvin. She said all her relatives live there and they know T. She testified the discrepancy in her name on her social security card and birth certificate made it difficult for her to get identification and in turn housing and a driver's license. Once she got her driver's license, she would have access to an extra family car in Oregon. She further testified the highest grade she completed was tenth grade and she planned to complete her general education requirements in Oregon and go to beauty school. She had also explored health insurance coverage for T. in Oregon and learned that he qualified for it. Petitioner also testified she asked that T. be placed with Jamie in 2008 when he was first removed from her.

Minor's counsel questioned petitioner about why she did not return on her own to Oregon. Petitioner testified she proposed moving back at each court hearing but believed she had to complete her services plan in Merced. She admitted that no one told her she had to stay in Merced but stated she did not want to leave T. and she did not know she could move.

Under questioning by county counsel, petitioner testified she was not working the 12-step program and did not have a sponsor. She said she dropped out of high school at

the age of 16, was not employed and had never been employed. She testified she did not look for an apartment of her own until October 2009 when the social worker told her the agency would pay the deposit. At that same time, she discovered the discrepancy on her social security card. She said she would have returned to Oregon to straighten out her affairs if she had known the solution was that easy.

Cindy Bray, career educator for the Empower Program, testified petitioner could not be officially enrolled in the program because of the problem with her identification. However, she participated in and completed all the workshops available. Ms. Bray testified petitioner was very cooperative and learned from the program.

Marvin testified he was employed as an aircraft mechanic in Oregon. He said he knew T. before petitioner left Oregon and had contact with him on holidays. He said petitioner and T. could live with him. He and Jamie live in his three-bedroom home and petitioner and T. would have their own room. Petitioner's attorney presented six pictures of Marvin's house, which were marked as exhibits. Marvin also stated he would assist petitioner with transportation, child care, health care, education, and job training. He testified he would help her in any way he could. He said he could transport petitioner and T. to Oregon that very day.

On cross-examination by minor's counsel and county counsel, Marvin testified he first discussed the possibility of petitioner moving to Oregon in January 2010 after the agency filed its report recommending termination of reunification services. He said he first learned of T. being detained in the fall of 2009, through Jamie. However, he did not know the circumstances. When he learned T. might be permanently removed from petitioner and that she was having difficulty establishing herself because of the discrepancy in her identification, he became involved to help her. He testified he never applied to have T. placed in his home through the ICPC.

Jamie, petitioner's older sister, testified she is a social worker, employed as a case worker at a youth and family services treatment facility, and she is a high school basketball coach. She said she requested placement of T. right after he was detained. She said someone was supposed to come evaluate their home but she left for Germany to play basketball and to coach youth basketball. She did not know how long she was going to be in Germany but was out of the country for a little over 10 months. She returned at the end of May 2009 and contacted the social workers in Merced. She estimated she called at least 25 times since T. was detained. She was told her request was denied. Like Marvin, Jamie testified she would take petitioner and T. into their home and assist her in any way possible.

On cross-examination, minor's counsel asked Jamie if she and petitioner discussed petitioner moving home to Oregon. She said they had, multiple times. She said petitioner wanted to return home but thought she had to complete her classes in Merced.

County counsel questioned Jamie about her educational and employment background as a social worker. When asked if she was familiar with the ICPC, she stated she was not.

Following testimony, petitioner's attorney argued for return of T. to petitioner. Minor's counsel argued it would not be in T.'s best interest to continue services. He questioned why petitioner remained in Merced when she had a supportive family in Oregon and suggested it was because she really did not want to return to Oregon but preferred to continue her associations in Merced. Minor's counsel also expressed concern that T. had been in the foster adoptive home for nine months and had bonded with his foster family. Minor's counsel did not think it would serve T.'s best interest to interrupt that situation. He also argued petitioner had not matured or internalized the concepts presented in the AA/NA meetings and he did not believe continuing services would accomplish that.

County counsel argued petitioner did not complete her case plan and it was detrimental to return T. to her custody. He also argued that neither Marvin nor Jamie applied for ICPC placement after Jamie returned from Germany. He urged the court to follow the agency's recommendations.

At the conclusion of the hearing, the juvenile court terminated petitioner's reunification services and set a section 366.26 hearing for July 1, 2010. In so doing, the court agreed that petitioner did not complete her case plan requirements, specifically mentioning her failure to obtain a sponsor. The court also wondered why the family waited so long to come forward to seek placement. The court found it would be detrimental to return T. to petitioner's custody. The court also stated it did not believe it would serve T.'s best interests for it to exercise its discretion to continue reunification services.

Petitioner filed a writ petition² seeking additional time to reunify with T. and placement of T. with her relatives. She appeared for oral argument telephonically from Oregon on June 9, 2010, and argued that the agency provided her little assistance and wrongfully prevented T. from being placed with Jamie and that her trial counsel did not properly represent her. County counsel, representing real party in interest, waived oral argument but was present in the courtroom and submitted the matter on the response to the writ petition.

Following oral argument, this court directed real party in interest to file supplemental briefing pursuant to Government Code section 68081 on whether the agency provided petitioner reasonable services given the following: the agency's failure to evaluate petitioner's Oregon relatives for placement pursuant to Judge Olney's express order; the agency's failure to evaluate petitioner's Oregon relatives pursuant to section

² R. did not file a writ petition.

361.3; and the agency's requirement petitioner establish a permanent home knowing she did not have the ability to do so in Merced. We have reviewed the supplemental briefing and will grant the petition for the reasons set forth in the ensuing discussion.

DISCUSSION

A. *Relative placement is integrally related to reunification.*

"The paramount goal in the initial phase of dependency proceedings is family reunification." (*In re Lauren Z.* (2008) 158 Cal.App.4th 1102, 1113 (dis. opn. of Rothschild, J.)) To that end, two key statutes are triggered upon the initial removal of a child. The first, section 361.5, subdivision (a) requires the juvenile court to provide reunification services to the parent for the purpose of facilitating family reunification. The reunification plan must be appropriate to the parent's circumstances. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545.) It must also be specific and internally consistent with the overall goal of resumption of a family relationship. (*In re Mario C.* (1990) 226 Cal.App.3d 599, 603-604.) As an arm of the juvenile court, it is the agency's duty to make a good faith effort to provide suitable services and assist the parent in areas where compliance proves difficult. (*In re Dino E.* (1992) 6 Cal.App.4th 1768, 1777.)

The second statute that is triggered by a child's removal is section 361.3, which requires the juvenile court to give preferential consideration to a request by a relative of the child for placement. (§ 361.3, subd. (a).) Section 361.3, subdivision (a) states in relevant part: "In any case in which a child is removed from the physical custody of his or her parents pursuant to Section 361, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative." "Preferential consideration," for purposes of the statute, "means that the relative seeking placement shall be the first placement to be considered and investigated." (§ 361.3, subd. (c)(1).) The relatives entitled to preferential consideration for placement are "an adult who is a grandparent, aunt, uncle, or sibling." (§ 361.3, subd. (c)(2).)

Relative placement is an integral part of reunification. It is not only designed to facilitate reunification but also reflects California's strong public policy favoring reunification because relatives presumably have a "broader interest in family unity" and are thus more likely than a stranger to favor the goal of reunification, to be supportive of the parent-child relationship and less likely to develop a conflicting emotional bond with the child and compete with the parents for permanent placement of the child. (*In re Joseph T.* (2008) 163 Cal.App.4th 787, 797-798 (*Joseph T.*).) Moreover, the preference applies throughout the reunification period. (*Id.* at p. 797.) If a relative requests placement of the child during that time, the juvenile court and the agency are required to evaluate that relative for placement. (*Id.* at p. 794.)

B. The agency thwarted reunification by not complying with section 361.3.

Petitioner's ability to successfully reunify with T. depended upon the support of her family in Oregon and regular contact with T. The logical first step in accomplishing both, was consideration of petitioner's Oregon relatives for placement. However, after its initial attempt to investigate Jamie for placement, the agency made no further attempts to investigate her or any of petitioner's other relatives, even after Jamie contacted the agency in May 2009 requesting placement and Judge Olney expressly ordered the agency in June 2009 to investigate petitioner's relatives.

Real party in interest contends the agency did not have to investigate petitioner's relatives in order to comply with Judge Olney's order, reasoning that Judge Olney ordered the agency to proceed with concurrent planning and presented a choice: investigate petitioner's relatives *or* the foster parent. We are certain Judge Olney did not intend his order to be construed as a choice, especially since he reminded the agency of "the pecking order," an obvious reference to the relative placement preference. Moreover, section 361.3 confers no such choice on the agency. When Jamie requested

placement in May 2009, the statute was triggered and the agency was statutorily mandated to investigate her for placement.

Real party in interest further contends the agency did not have to investigate Jamie for placement because there is no evidence in the record that she complied with the ICPC. According to the relative placement statute, all that was required of Jamie was that she “request” placement. (§ 361.3, subd. (a).) We are unaware of any authority, and real party in interest does not cite any, that requires a relative seeking placement to do anything more than ask. In fact, one court held that a request for placement made in open court was sufficient to trigger the investigation and evaluation required by section 361.3. (*In re Rodger H.* (1991) 228 Cal.App.3d 1174, 1185.) Further, to the extent the ICPC required Jamie to submit documentation, it was in the agency’s interest to guide her through the process since the agency had the duty to investigate and evaluate her.

We conclude the agency failed to comply with Judge Olney’s order made pursuant to section 361.3 and that its failure to do so was not harmless. (*Joseph T., supra*, 163 Cal.App.4th at p. 798.) Section 361.3, subdivision (a) sets forth certain factors the court must consider in evaluating a relative for placement including: the best interest of the child; the wishes of the parents and relatives; the nature and duration of the child-relative relationship; the relative’s ability to care for the child; and the safety of the relative’s home. (§ 361.3, subd. (a)(1)-(8).) Additionally, with respect to the relative’s ability to care for the child, subdivision (a) of section 361.3 further requires the court to consider the relative’s ability to provide a safe, secure, and stable environment for the child, exercise proper and effective care and control of the child, provide a home and the necessities of life for the child, protect the child from his or her parents, facilitate court-ordered reunification efforts with the parents, facilitate visitation with the child’s other relatives, facilitate implementation of all elements of the case plan, provide legal

permanence for the child if reunification fails and arrange for appropriate and safe child care, as necessary. (§ 361.3, subd. (a)(7)(A)-(I).)

Given Jamie's testimony of her willingness and ability to provide and care for T., we believe the juvenile court would have viewed Jamie favorably for placement had the agency investigated her. Therefore, the agency's failure to investigate Jamie for placement and thus the juvenile court's failure to afford her relative placement was not harmless error. Further, if the agency's investigation had resulted in T.'s placement with Jamie, petitioner presumably would have promptly relocated to Oregon and established a home for T. by the 12-month review hearing. Because the agency did not comply with section 361.3, it thwarted petitioner's ability to successfully reunify.

C. The agency did not make a good faith effort to assist petitioner in establishing a permanent home for T.

The agency was well aware that petitioner did not have a stable home in Merced and did not have the resources to establish one. She did not have a high school diploma, a source of income, jobs skills, or job experience. Yet, at the very time the agency was transferring T. into the concurrent home with a view toward adoption, it added to petitioner's case plan the requirement that she establish a safe and stable home for herself and T. It did so without making any discernable effort to help petitioner satisfy this requirement. According to petitioner, the social worker did not inform her until October 2009 that the agency could help her pay the deposit on an apartment. It was at this point that petitioner discovered she lacked valid identification and could not obtain housing or employment until she rectified it. Still, there is no evidence the agency tried to help petitioner obtain valid identification, locate interim housing, or assist her with finding employment or gaining job skills. There was no possible way petitioner was going to be able to establish a home for herself and T. in Merced without the agency's assistance.

Real party in interest argues petitioner's case plan did not require her to establish a home in Merced. That is true. However, the agency was not pursuing relative placement in Oregon. Therefore, if petitioner wanted to maintain contact with T., she was compelled to remain in Merced. Moreover, relocation to Oregon without regular contact could have resulted in profound legal consequences. A parent's failure to regularly visit his or her child not only factors into the juvenile court's decision to continue reunification services but also to terminate parental rights. (§§ 366.21, subds. (e), (f), (g)(1)(A), 366.22, subd. (b)(1) & 366.26, subd. (c)(1)(B)(i).) Had petitioner relocated to Oregon with the intention of establishing a permanent home there but without the ability to maintain contact with T., she would have effectively sabotaged her ability to reunify with him.

There were only two ways petitioner could provide T. a permanent home: return to her family in Oregon or remain in Merced. The agency foreclosed petitioner from providing T. a permanent home in Oregon by not assessing her relatives. It also foreclosed petitioner from providing T. a permanent home in Merced by not assisting her with housing or employment. We conclude the agency's efforts in this case were not only unreasonable, they were inconsistent with reunification.

D. The juvenile court erred in finding petitioner was provided reasonable services.

At the 12-month review hearing, the juvenile court must determine whether the parent was provided reasonable reunification services. (§ 366.21, subd. (f).) For all the reasons previously stated, we conclude petitioner was not provided reasonable services. Therefore, the juvenile court erred in so finding.

Where reasonable services were not provided, the juvenile court must continue reunification services. (§ 366.21, subd. (g)(1)(C).) Accordingly, we will vacate the juvenile court's finding petitioner was provided reasonable services and its order setting the section 366.26 hearing and order further proceedings as set forth in our disposition.

Further, because we grant relief on the issue of reasonableness of services, we need not address whether trial counsel was ineffective.

DISPOSITION

Let an extraordinary writ issue directing the juvenile court to vacate its finding petitioner was provided reasonable services and its order setting a section 366.26 hearing issued on March 22, 2010. The court is further directed to conduct a new 12-month review hearing and order the agency to revise petitioner's reunification plan and provide her an additional six months of reunification services. The revised reunification plan must be appropriate to petitioner's circumstances, consistent with a plan to reunify her with T. and designed to maximize their contact. The court is further directed to order the agency to evaluate petitioner's Oregon relatives for placement. After the assessment is complete, the court shall conduct a hearing and consider whether relative placement is appropriate for T. If the court does not place T. with a relative who has been considered for placement, the court shall state its reasons for the record. (§ 361.3, subd. (e).) If the court decides to place T. with a relative, the court shall implement a transition plan.

This opinion is not to be construed as a directive to place T. with a relative. Rather, it is intended to ensure that the juvenile court and the agency comply with section 361.3.